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Via Certified Mailing – Return Receipt

December 10, 2013

Humberto M. Molina
Public Works Director
City of Livingston
1416 C Street
Livingston, CA 95334

Jose A. Ramirez, City Manager
Members of the City Council
City of Livingston
1416 C Street
Livingston, CA 95334

Re: Notice of Violations and Intent to File Suit under the Safe Drinking Water Act

Dear Mr. Molina, Mr. Ramirez and Members of the City Council:

NOTICE

The Safe Drinking Water (“SDWA” or the “Act”) §300j-8(b)(1)(A) requires that sixty (60) days prior to the initiation of a civil action under SDWA §300j-8(a)(1), 42 U.S.C. §1449(a)(1), a citizen must give notice of the intent to sue to the alleged violator and applicable federal and state authorities.

California River Watch (“River Watch”) hereby gives notice to the City of Livingston (hereafter referred to as “the Discharger,”) that following the expiration of sixty (60) days from the date of receipt of this Notice, River Watch will be entitled to bring suit in the United States District Court against the Discharger for violations of requirements prescribed by or under the SDWA including, but not limited to: non-compliance with maximum contaminant levels (“MCLs”) issued under SDWA §300g-1, 42 U.S.C. §1412 and the Code of Federal Regulations, as exemplified by the incidents of non-compliance identified and outlined in this Notice; and, failure to properly monitor water quality delivered to end-users, with respect to the Discharger’s community water system.

The SDWA requires that any Notice regarding an alleged violation of any requirement prescribed by or under the Act shall include sufficient information to permit the recipient to identify the following:

1. *The specific requirement alleged to have been violated.*

In addition to the narratives below, River Watch identifies documents obtained from the California Department of Public Health's Division of Drinking Water and Environmental Management identifying repeated non-compliance with statutory MCLs at source well No. 13 in violation of the SDWA's regulation of the maximum permissible level of contaminants in water delivered to any user of a public water system, in violation of SDWA §300fg-1, 42 U.S.C. §1412.

2. *The activity alleged to constitute a violation.*

The Discharger is responsible for and operates a community water system which provides drinking water to a population of approximately 13,920 residents. It is regulated under California Water Permit No. 03-11-98P001 issued by the California Department of Public Health. The City's water supply is groundwater. River Watch has set forth narratives below describing "positive" detections above the MCL for arsenic, all occurring during specific reporting periods between 2008 and 2013.

The violations are described in this Notice with particularity, and are based on data detailed in public reports and other documents in the Discharger's possession or otherwise available to the Discharger. In addition to these reported violations, River Watch could find no evidence in any public reports that the Discharger has determined the quality of water delivered to end-users. River Watch incorporates by reference the records cited below from which descriptions of specific incidents were obtained.

3. *The person or persons responsible for the alleged violation.*

The entity responsible for the alleged violations is the City of Livingston, including its Public Works Department, and those of its operators and employees responsible for compliance with the SDWA and compliance with any applicable state and federal regulations and permits.

4. *The location of the alleged violation.*

The locations of the various violations are identified in California Water Permit No. 03-11-98P001 issued to the Discharger by the California Department of Public Health.

5. *The date or dates of violation or a reasonable range of dates during which the alleged activity occurred.*

River Watch has examined records on file with the California Department of Public Health and the Discharger. The range of dates covered by this Notice is from December 10, 2008 to December 10, 2013. River Watch will from time to time update this Notice to include violations which occur after the range of dates covered by this Notice. Specific violations occurring on specific dates are listed herein. Some of the violations are continuous in nature such as failure to monitor water quality at point of delivery. Therefore, each day constitutes a separate violation.

6. *The full name, address, and telephone number of the person giving notice.*

The entity giving notice is California River Watch, 290 S. Main Street, #817, Sebastopol, CA 95472, referred to throughout this Notice as "River Watch." River Watch is a 501(c)(3) non-profit, public benefit corporation organized under the laws of the State of California, dedicated to protect, enhance and help restore the groundwater and surface water environs of California including, but not limited to, its rivers, creeks, streams, wetlands, vernal pools and tributaries. River Watch may be contacted via email: US@ncriverwatch.org or through its attorneys.

River Watch has retained legal counsel with respect to the violations set forth in this Notice. All communications should be addressed to:

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STATUTORY BACKGROUND

The SDWA, 42 U.S.C. §§300f to 300j-26, was enacted in 1974 to "assure that water supply systems serving the public meet minimum national standards for protection of public health." Safe Drinking Water Act, Legislative History, H.R. Rep. No. 93-1185 (1974), reprinted at 1974 U.S.C.C.A.N. 6454. The Act authorizes the EPA to "establish federal standards applicable to public water supplies from harmful contaminants, and establish a joint federal-state system for assuring compliance with these standards and for protecting underground sources of drinking water." *Id.* at 6454-55.

Section 1412(b)(1)(A) of the SDWA requires the EPA to identify contaminants in public water supply systems that may have an adverse human health effect and for which regulation would present a "meaningful opportunity" for reduction of that health risk. 42 U.S.C. §300g-1(b)(1)(A). For each of the contaminants identified under SWDA Section 1412(b)(1), Section 1412(b)(1)(E) requires the EPA to establish maximum contaminant level goals ("MCLGs") as well as MCLs. 42 U.S.C. §300g-1(b)(1)(E). A violation of the SDWA occurs when testing/monitoring indicates that the level of a contaminant in treated water exceeds the MCL.

Private parties may bring citizens' suits pursuant to 42 U.S.C. §300j-8 to enforce violations of MCLs. River Watch contends that the Discharger is, among its other activities, a supplier of drinking water regulated under the SDWA and, as detailed in the most recent monitoring reports provided by the California Department of Public Health, violating the MCL for arsenic.

VIOLATIONS

River Watch contends that between December 10, 2008 and December 10, 2013, the Discharger violated the SDWA and the Code of Federal Regulations by failing to ensure the drinking water supplied to its customers met and continues to meet the standards required by law including, but not limited to, exceeding the MCL for arsenic and inadequate compliance with monitoring requirements obligating the supplier to confirm water quality at the point of delivery.

The violations listed below are derived from records publically available, or records in the possession and control of the Discharger. Monitoring dates and reported exceedances were taken from Department of Public Health documents and the EPA ECHO database.

WELL NO. 13, CITY OF LIVINGSTON WATER SYSTEM

MCL - Arsenic 0.010 ppm

Monitoring Dates and Reported Exceedances

5/26/2009 - 0.011 ppm
7/14/2009 - 0.011 ppm
2/07/2012 - 0.011 ppm
3/05/2013 - 0.0106 ppm
4/09/2013 - 0.013 ppm
4/30/2013 - 0.0118 ppm

Running Annual Averages - Quarters out of Compliance

2Q 2013 - 0.0107 ppm

Point of Use Quality Assurance

Although drinking water suppliers tend to sample water quality from a central location, such as directly after treatment, the water supplier is responsible for water quality either at the point of use or point of delivery. There is no evidence in the public record that the Discharger has ever assured its water quality at point of use or point of delivery.

CONCLUSION

It is presumed that a drinking water supplier is in continual violation of the applicable standard until constituent measurements are below that applicable standard. Therefore, each day after an exceedance and until the supplier is in compliance is considered a separate violation of the SDWA and the court can grant relief in the form of requiring that the drinking water be brought to meet drinking water standards, awarding of attorney fees, and in some cases, penalties.

The importance of quality drinking water cannot be overstated. Maximum Contaminant Levels are set with the biology of healthy young adults in mind. The same standards are set for everyone, including children, pregnant women, the elderly and infirm. River Watch is understandably concerned about the health effects of water systems which continue to provide contaminants above MCLs.

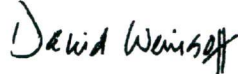
Arsenic in drinking water has been linked to adverse health effects including circulatory problems and increased risk of cancer. It is the Discharger's responsibility to conform to the standards set forth in the SDWA, as well as to ensure that water has been tested at the point of delivery.

River Watch believes this Notice sufficiently states grounds for filing suit. At the close of the 60-day notice period or shortly thereafter, River Watch has cause to file a citizen's suit under SDWA §1449 against the Discharger for the violations identified and described in this Notice.

During the 60-day notice period, River Watch is willing to discuss effective remedies for the violations identified in this Notice. However, if the Discharger wishes to pursue such discussions in the absence of litigation, it is suggested those discussions be initiated soon so that they may be completed before the end of the 60-day notice period. River Watch does

not intend to delay the filing of a lawsuit if discussions are continuing when the notice period ends.

Very truly yours,



David Weinsoff

DW:lmh

cc: Administrator
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